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Superior Court of California  
County of Fresno  
By: C. York, Deputy

Attorneys for Plaintiff  
LONDON WALLACE, a minor,  
by and through his Guardian ad Litem, LOIS ROBINSON

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF FRESNO

LONDON WALLACE, a minor, by and  
through his Guardian ad Litem, LOIS  
ROBINSON,

Plaintiff,

vs.

CITY OF FRESNO; FRESNO POLICE  
DEPARTMENT; OFFICER CHRISTOPHER  
MARTINEZ; and DOES 1 to 25, inclusive,

Defendants.

Case No. [19CECG02704](#)

**CLAIM FOR DAMAGES:**

1. **42 U.S.C. section 1983 - Use of Excessive Force in Violation of the Fourth Amendment**
2. **42 U.S.C. section 1983 - Use of Excessive Force in Violation of the Fourteenth Amendment**
3. **Municipal Liability for Unconstitutional Custom, Practice or Policy, Failure to Train and Supervisory Liability (Monell)**
4. **Battery**
5. **Negligence**
6. **Intentional Infliction of Emotional Distress**
7. **Negligent Infliction of Emotional Distress**
8. **California Code of Civil Procedure section 52.1 - Bane Act Violation**
9. **False Imprisonment**

Plaintiff, LONDON WALLACE, a minor, by and through his Guardian ad Litem, LOIS  
ROBINSON, alleges as follows:

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**ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

1. Plaintiff, LONDON WALLACE, a minor, by and through his Guardian ad Litem, LOIS ROBINSON, hereby alleges that he was born on September 8, 2001, and is currently 17 years old. He is/was, at all times relevant herein, a resident of the County of Fresno, State of California. Plaintiff files this civil action as a result of a January 23, 2019 incident involving the Fresno Police Department in Fresno, California.

2. Defendant, CITY OF FRESNO, is a local public agency within the meaning of Government Code section 6252(d) and the FRESNO POLICE DEPARTMENT is a department within the City of Fresno, both operating within the County of Fresno.

3. Defendants, OFFICER CHRISTOPHER MARTINEZ and DOES 1-25, inclusive, and each of them, were, at all relevant times, Fresno Police Department Officers acting under color of law and color of authority and within the course and scope of their employment with the CITY OF FRESNO. OFFICER CHRISTOPHER MARTINEZ, DOES 1-25, inclusive, and each them, are sued individually, as well as in their capacity as Fresno Police Department Officers.

4. The true names and capacities, whether individual, corporate, employed, agent, associate, or otherwise, of the Defendants' names herein as DOES 1-25, inclusive, are unknown to Plaintiff who therefore sues said Defendants by such fictitious names. Plaintiff will amend this Complaint to show their true names and capacities when the same has been ascertained.

5. Plaintiff is informed and believes and, upon such information and belief, alleges that each of the Defendants designated herein as "DOE" is legally responsible in some manner for the events and happenings referred to, and proximately caused the damages to Plaintiff herein alleged.

6. Plaintiff is informed and believes and, upon such information and belief, alleges that Defendants, and each of them, are and/or were the agents and/or employees of each of the remaining Defendants and were acting within the course and scope of such employment and/or agency in performance of the acts herein alleged. Each and every Defendant named herein is jointly and severally responsible and liable to Plaintiff for damages alleged herein.

7. On or about January 23, 2019, employees of the CITY OF FRESNO arrived allegedly to perform a probation search of the residence at 250 N. Calaveras St., Apt. 204 in Fresno, California.

1 8. Fresno Police Department Officers ordered and forced everyone inside the apartment outside.  
2 Everyone inside the apartment, including Plaintiff, a minor, was forced outside, searched and detained.

3 9. Plaintiff was forced from the residence, searched and detained without a warrant and without  
4 Plaintiff's consent.

5 10. Several Fresno Police Department units and officers were present, in uniform and armed.

6 11. Plaintiff was not in possession of any illegal substances, drugs or weapons.

7 12. After being searched, Plaintiff was directed to a location along the apartment wall where he was  
8 to sit until instructed otherwise. Before Plaintiff could sit down, Fresno Police Department OFFICER  
9 CHRISTOPHER MARTINEZ attacked, punched and tackled Plaintiff to the ground resulting in serious  
10 injuries to Plaintiff, including but not limited to, a broken nose, bleeding and emotional distress.

11 13. At no point did Plaintiff pose a threat to OFFICER CHRISTOPHER MARTINEZ or any other  
12 Fresno Police Department Officer. At no point did Plaintiff disobey any orders from the Fresno Police  
13 Department. At no point did Plaintiff consent to being searched, detained or assaulted.

14 14. Defendants' actions and conduct on or about January 23, 2019, evidence the CITY OF  
15 FRESNO'S failure to train its officers to prevent a violation of the City's citizens' individual rights,  
16 including that of Plaintiff. Defendants searched, detained, yelled orders at, and assaulted Plaintiff. At  
17 all times Plaintiff complied with Defendants.

18 15. Plaintiff was forcefully man-handled, attacked, punched, tackled, outnumbered and seriously  
19 injured by Defendants.

20 16. Plaintiff did not pose a threat to officers and never disobeyed officers' commands.

21 17. Plaintiff did not possess any guns or weapons.

22 18. The CITY OF FRESNO and the FRESNO POLICE DEPARTMENT has a long history of  
23 examples of its pattern and practice in the use of excessive force in handling issues with its citizens.  
24 There is a pattern and practice of officers not being properly disciplined for their actions involving use  
25 of excessive force. As a result of this failure to address and discipline, the CITY OF FRESNO and  
26 Fresno Police Department have fostered an environment and created a culture and belief that it is  
27 permissible to use excessive force against civilians and their property without fear of repercussion, ///  
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1 accountability or disciplinary action by the CITY OF FRESNO and the FRESNO POLICE  
2 DEPARTMENT.

3 19. The actions of Defendants who were involved in this incident were taken contrary to written  
4 policies and practices of the City of Fresno and the Fresno Police Department. Those actions were  
5 consistent with the Fresno Police Department's culture of deliberate indifference to the use of excessive  
6 force in encounters with civilians, when it is a grossly disproportionate response to a situation, and even  
7 when no reasonable basis exists for any use of force whatsoever, as in this case.

8 20. Despite Defendants' knowledge of these illegal policies and practices, the supervisory and policy-  
9 making employees of the City of Fresno and the Fresno Police Department have maliciously and with  
10 deliberate indifference, taken no effective steps to terminate the policies and practices. The Fresno Police  
11 Department has not effectively disciplined or otherwise properly supervised the officers who engage in  
12 these policies and practices; has not effectively trained their officers with regard to the proper  
13 constitutional and statutory limits of the exercise of their authority; and has sanctioned the policies and  
14 practices through their deliberate or grossly negligent indifference to their detrimental effect on the  
15 constitutional rights of local residents. Based upon information and belief, the CITY OF FRESNO's  
16 supervisory and policy making personnel have maliciously and with deliberate indifference taken no  
17 effective steps to terminate the policies and practices or change the Department's culture of its illegal  
18 policies and practices in dealing with its citizens including, but not limited to, Plaintiff. The CITY OF  
19 FRESNO routinely failed to effectively discipline and properly supervise the officers who engage in the  
20 policies, procedures and practices of the Fresno Police Department and have not effectively trained its  
21 officers with regard to the proper Constitutional and statutory limits of the exercise of its officers'  
22 authority. Rather, the CITY OF FRESNO and the FRESNO POLICE DEPARTMENT have sanctioned  
23 the policies and practices through their deliberate and/or grossly negligent indifference to their  
24 detrimental effect on the Constitutional rights of the City and County of Fresno's citizens.

25 21. Despite the CITY OF FRESNO and the FRESNO POLICE DEPARTMENT knowing of civil  
26 rights abuses by its employees/police officers, they failed to remedy or address these violations,  
27 knowingly and with deliberate indifference, and promulgated policies on the use of excessive force by  
28 officers that deliberately disregard the Constitutional rights of the citizens of the City of Fresno. Based

1 upon information and belief, the acts, omissions, practices, policies, failure to discipline, and long history  
2 of complete and utter support by the FRESNO POLICE DEPARTMENT and the CITY OF FRESNO of  
3 its police officers involved in such situations and incidents of civil rights abuses, were ratification and  
4 approval by the CITY OF FRESNO and its employees and/or agents, which resulted in the Plaintiff's  
5 injuries and damages.

6 22. As a direct and proximate result of Defendants, and each of their, acts, conduct, practices, policies  
7 and procedures described herein, Plaintiff suffered physical injuries to his head, nose, body, property  
8 damage, mental distress, severe emotional distress and pain and suffering.

9 23. As a further direct and proximate result of Defendants, and each of their, acts, Plaintiff has  
10 incurred attorney's fees and costs in prosecuting this case.

11 24. Plaintiff further alleges that the conduct by Defendant OFFICER CHRISTOPHER MARTINEZ  
12 and DOES 1-25, inclusive, and each of them, was willful, wanton, malicious, oppressive, in bad faith,  
13 and acted with deliberate indifference and reckless disregard for the rights of Plaintiff, and intentionally  
14 violated State and Federal law. As a result, Plaintiff is entitled to an award of punitive damages.

15 25. On or about May 21, 2019, Plaintiff timely filed a claim for damages with the City of Fresno. As  
16 of today's date, Plaintiff's claim has not been accepted or rejected and therefore Plaintiff's claim was  
17 deemed rejected after forty-five days. Therefore, Plaintiff has complied with the claim filing prerequisites  
18 of the California Tort Claims Act, prior to the filing of this Complaint.

19 **FIRST CAUSE OF ACTION**

20 **42 U.S.C. SECTION 1983**  
21 **USE OF EXCESSIVE FORCE**  
**IN VIOLATION OF THE FOURTH AMENDMENT**

22 26. The allegations of paragraphs 1 through 25, are realleged and incorporated herein by reference.

23 27. Defendants' conduct and actions violated Plaintiff's rights including, but not limited to, Plaintiff  
24 being forcefully man-handled, removed from the residence and searched without a warrant, attacked,  
25 punched and tackled when Plaintiff was unarmed, posed no threat to officers and complied with all orders  
26 of law enforcement, all which violated his Fourth Amendment rights to be free from the use of excessive  
27 force.

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1 28. The violation of Plaintiff's Constitutional rights occurred as a result of the deliberate, reckless,  
2 and malicious acts, omissions, conduct and practices, of the CITY OF FRESNO as a result of its  
3 approval, ratification, encouragement, absolution, and authorization of the excessive use of force by the  
4 Fresno Police Department in the present case, and other cases and situations in the past, as well as those  
5 actions and/or failures to act as described in Paragraphs 7-13, above.

6 29. These violations are compensable pursuant to 42 U.S.C. Section 1983. As a result of the  
7 Defendants' conduct, Plaintiff has suffered physical injuries to his head, nose, body, property damage,  
8 mental distress, severe emotional distress and pain and suffering, including, but not limited to, any and  
9 all damages set forth below and according to proof at the time of trial.

10 **SECOND CAUSE OF ACTION**

11 **42 U.S.C. SECTION 1983**  
12 **USE OF EXCESSIVE FORCE**  
**IN VIOLATION OF THE FOURTEENTH AMENDMENT**

13 30. The allegations of paragraphs 1 through 29, are realleged and incorporated herein by reference.

14 31. Defendants' conduct and actions violated Plaintiff's rights including, but not limited to, Plaintiff  
15 being forcefully man-handled, removed from the residence and searched without a warrant, attacked,  
16 punched and tackled when Plaintiff was unarmed, posed no threat to officers and complied with all orders  
17 of law enforcement, all which violated his Fourteenth Amendment rights to be free from the use of  
18 excessive force.

19 32. The violation of Plaintiff's Constitutional rights occurred as a result of the deliberate, reckless,  
20 and malicious acts, omissions, conduct and practices, of the CITY OF FRESNO as a result of its  
21 approval, ratification, encouragement, absolution, and authorization of the excessive use of force by the  
22 Fresno Police Department in the present case, and other cases and situations in the past, as well as those  
23 actions and/or failures to act as described in Paragraphs 7-13, above.

24 33. These violations are compensable pursuant to 42 U.S.C. Section 1983. As a result of the  
25 Defendants' conduct, PlaintiffS have suffered physical injuries to his head, nose, body, property damage,  
26 mental distress, severe emotional distress and pain and suffering, including, but not limited to, any and  
27 all damages set forth below and according to proof at the time of trial.

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1 THIRD CAUSE OF ACTION

2 MUNICIPAL LIABILITY FOR UNCONSTITUTIONAL CUSTOM,  
3 PRACTICE OR POLICY, FAILURE TO TRAIN AND  
4 SUPERVISORY LIABILITY (MONELL)

5 34. The allegations of paragraphs 1 through 33, are realleged and incorporated herein by reference.

6 35. As against Defendants, CITY OF FRESNO; FRESNO POLICE DEPARTMENT; OFFICER  
7 CHRISTOPHER MARTINEZ, and DOES 1-25, Plaintiff alleges that the acts and/or omissions alleged  
8 in this Complaint are indicative of a repeated practice of conditioning and tacitly encouraging the abuse  
9 of authority and disregard for the Constitutional rights of citizens including, but not limited to, Plaintiff.

10 36. On or about January 23, 2019, Defendants, and each of them, deprived Plaintiff of the rights and  
11 liberties secured by the Fourth and Fourteenth Amendments to the United States Constitution. In doing  
12 so, Defendants, CITY OF FRESNO; FRESNO POLICE DEPARTMENT; OFFICER CHRISTOPHER  
13 MARTINEZ; and DOES 1-25, along with their supervising and managing employees, agents and  
14 representatives, acting with gross negligence, reckless disregard and deliberate indifference to the rights  
15 and liberties of the public in general, which included that of Plaintiff, knowingly maintained, enforced,  
16 and applied an official recognized custom, policy and practice of inadequately supervising, training,  
17 controlling, assigning and disciplining Fresno Police Department Officers and other personnel, including  
18 maintaining grossly inadequate procedures for reporting, supervising, investigating, revealing,  
19 disciplining and controlling the misconduct of its officers.

20 37. The longstanding history of hurried public advocacy, perpetuating, sanctioning, ratifying,  
21 fostering, and tolerating outrageous police conduct and other acts, Defendants, and each of them, acted  
22 with intentional, reckless and callous disregard for the well being of Plaintiff and his Constitutional rights.  
23 The actions of Defendants, and each of them, were willful, wanton, oppressive, malicious, fraudulent,  
24 extremely offensive, and unconscionable to any person of normal sensibilities.

25 38. The policies, practices and customs implemented, maintained and tolerated by Defendants were  
26 affirmatively linked to, and were an influential force, that resulted in the damages to Plaintiff.

27 39. Defendants, and each of them, are liable to Plaintiff for compensatory and exemplary damages  
28 for the wrongful seizure, assault and battery of Plaintiff under 42 U.S.C. Section 1983.

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1 **FOURTH CAUSE OF ACTION**

2 **BATTERY**

3 40. The allegations of paragraphs 1 through 39, are realleged and incorporated herein by reference.

4 41. OFFICER CHRISTOPHER MARTINEZ intentionally used excessive and unreasonable force  
5 against Plaintiff, including, but not limited to, forcefully man-handling him, removing him from the  
6 residence and searching him without a warrant, attacking, punching and tackling Plaintiff when he was  
7 unarmed, posed no threat to officers and complied with all orders of law enforcement. In doing so,  
8 OFFICER CHRISTOPHER MARTINEZ and DOES 1-25 acted with the intent to initiate contact with  
9 Plaintiff's person. OFFICER CHRISTOPHER MARTINEZ and DOES 1-25 had no legal justification  
10 for using excessive force against Plaintiff, while carrying out their official duties.

11 42. Defendants' conduct resulted in harmful and offensive contact with Plaintiff, causing him to  
12 sustain injuries to their health, safety, person and property, which caused extreme mental, physical and  
13 emotional pain and suffering and property damage.

14 43. CITY OF FRESNO and FRESNO POLICE DEPARTMENT are vicariously liable for the tortuous  
15 acts and omissions of OFFICER CHRISTOPHER MARTINEZ and DOES 1-25, thereby entitling  
16 Plaintiff to an award of compensatory damages, including general and special damages, as well as  
17 exemplary and punitive damages.

18 **FIFTH CAUSE OF ACTION**

19 **NEGLIGENCE**

20 44. The allegations of paragraphs 1 through 43, are realleged and incorporated herein by reference.

21 45. OFFICER CHRISTOPHER MARTINEZ and DOES 1-25 owed Plaintiff a duty to use care during  
22 the incident on or about January 23, 2019. The officers negligently and recklessly breached their duty  
23 to use due care, which directly and proximately resulted in the injuries to Plaintiff. As an actual, direct  
24 and proximate result of Defendants' negligence which caused Plaintiff's injuries and damages, Plaintiff  
25 sustained injuries to their health, safety, person and property, which caused extreme mental, physical and  
26 emotional pain and suffering and property damage.

27 46. CITY OF FRESNO and FRESNO POLICE DEPARTMENT are liable for the negligent acts of  
28 OFFICER CHRISTOPHER MARTINEZ and DOES 1-25, for failing to devote a reasonable and



1 sufficient amount of time and service to training and supervising the individual law enforcement officers  
2 and Defendants.

3 47. CITY OF FRESNO and FRESNO POLICE DEPARTMENT are vicariously liable for the  
4 negligent acts and omissions of OFFICER CHRISTOPHER MARTINEZ and DOES 1-25.

5 48. Defendants were negligent and, as a result of their conduct, Defendants caused physical and severe  
6 emotional damages to Plaintiff including, but not limited to, any and all damages pled below.

7 **SIXTH CAUSE OF ACTION**

8 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

9 49. The allegations of paragraphs 1 through 48, are realleged and incorporated herein by reference.

10 50. The conduct of OFFICER CHRISTOPHER MARTINEZ and DOES 1-25 resulted in the  
11 intentional infliction of emotional distress. Defendants' conduct and actions, including, but not limited  
12 to, Plaintiff being forcefully man-handled, removed from the residence and searched without a warrant,  
13 attacked, punched and tackled when he was unarmed, posed no threat to officers and complied with all  
14 orders of law enforcement was egregious and outrageous.

15 51. As a result of Defendants' actions, Plaintiff suffered severe emotional distress. Plaintiff was  
16 reasonably required to and did incur medical and incidental expenses for treatment of his emotional  
17 distress and mental suffering, the exact amounts of which are unknown at this time. Plaintiff is informed  
18 and believes, and thereon alleges, that he will be reasonably required to incur similar expenses in the  
19 future.

20 52. Defendants' actions were a substantial factor in causing Plaintiff severe emotional distress.

21 53. OFFICER CHRISTOPHER MARTINEZ and DOES 1-25 acted despicably and with the intent  
22 to cause injury to Plaintiff, or with a knowing, reckless, and conscious disregard of the rights and safety  
23 of Plaintiff, and further acted willfully or with gross negligence to cause injury to Plaintiff, in disregard  
24 of humanity. Plaintiff is thus entitled to an award of punitive damages.

25 54. CITY OF FRESNO is vicariously liable for the intentional infliction of emotional distress of  
26 Plaintiff through the acts and omissions of OFFICER CHRISTOPHER MARTINEZ and DOES 1-25.

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1 **SEVENTH CAUSE OF ACTION**

2 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

3 55. The allegations of paragraphs 1 through 54, are realleged and incorporated herein by reference.

4 56. Defendants were negligent, were in breach of the duty Defendants owed to Plaintiff to exercise  
5 reasonable care in which a reasonable, prudent person under like circumstances would not have engaged.

6 57. In carrying out the conduct as previously described, Defendants breached a duty owed to Plaintiff.

7 58. As a legal cause of Defendants' actions, Plaintiff suffered, and will continue to suffer, pain and  
8 suffering, extreme mental anguish, and severe emotional distress of substantial quantity and enduring  
9 quality that no reasonable person in a civilized society should be expected to endure in an amount  
10 according to proof at trial.

11 **EIGHTH CAUSE OF ACTION**

12 **CALIFORNIA CIVIL CODE SECTION 52.1 - BANE ACT VIOLATION**

13 59. The allegations of paragraphs 1 through 58, are realleged and incorporated herein by reference.

14 60. OFFICER CHRISTOPHER MARTINEZ and DOES 1-25, while working for the CITY OF  
15 FRESNO and FRESNO POLICE DEPARTMENT, and acting within the course and scope of their duties,  
16 interfered with, or attempted to interfere with, the rights of Plaintiff to be free from unreasonable searches  
17 and seizures, to equal protection under the law, to access to the courts, and to be free from State actions  
18 that shock the conscience by threatening or committing acts involving violence, threats, coercion or  
19 intimidation.

20 61. As a result of the violence, threats, coercion and intimidation, Defendants violated Plaintiff's  
21 rights under the Fourth and Fourteenth Amendments, causing Plaintiff severe pain and suffering, as  
22 detailed herein. The conduct of OFFICER CHRISTOPHER MARTINEZ and DOES 1-25, was a  
23 substantial factor in causing the injuries and damages sustained by Plaintiff.

24 **NINTH CAUSE OF ACTION**

25 **FALSE IMPRISONMENT**

26 62. The allegations of paragraphs 1 through 61, are realleged and incorporated herein by reference.

27 63. Defendants, and each of them, intentionally deprived Plaintiff of their freedom of movement by  
28 detaining him, searching him, handcuffing him and arresting him without reasonable justification.

64. Defendants, and each of their words, actions, and confinement compelled Plaintiff to remain handcuffed and confined.

65. Plaintiff did not voluntarily consent to the confinement.

66. Plaintiff suffered actual harm as a result of the confinement.

67. Defendants, and each of their conduct was a substantial factor in causing Plaintiff's harm.

68. Defendants, and each of their conduct in confining Plaintiff was intentional, despicable, and done with a willful and knowing disregard of Plaintiff's rights and safety.

**PRAYER**

WHEREFORE, Plaintiff prays that this Court to enter judgment in his favor and against CITY OF FRESNO; FRESNO POLICE DEPARTMENT; OFFICER CHRISTOPHER MARTINEZ; and DOES 1-25, inclusive, in their individual capacity, and any other identified DOE Defendants in their individual capacities, as follows:

1. For general (non-economic) damages against all Defendants, jointly and severally, under Federal and State law, in an amount to be proven at trial;
2. For special (economic) damages against all Defendants, jointly and severally, under Federal and State law, in an amount to be proven at trial;
3. For punitive and exemplary damages, in an amount to be proven at trial as to Defendants OFFICER CHRISTOPHER MARTINEZ and DOES 1-25 only;
4. For attorney's fees;
5. For costs of suit; and
6. For any and all further relief, including injunctive relief, as the Court deems just and proper.

Dated: July 18, 2019

BARADAT & PABOOJIAN, INC.

By: 

Warren R. Paboojian  
Nolan C. Kane  
Attorneys for Plaintiff  
LONDON WALLACE, a minor, by and  
through his Guardian ad Litem,  
LOIS ROBINSON